

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF:

Randy C Oelfke,

Respondent.

DIA No. 22DOEBEE0041

Case No. 22-63

Folder No. 1115818

**Order Regarding Proposed
Decision**

This matter came before the Board of Educational Examiners upon receipt of the Proposed Decision in this case. The Board has reviewed the Proposed Decision in this matter. The proposed decision was served upon the Respondent and the Board.

The Board has not initiated review of the proposed decision. The Respondent has not filed an appeal. Thus, neither party appealed within the time allowed by 282 Iowa Administrative Code 11.28(1).

ORDER

THEREFORE, the Proposed Decision in the matter stands as the Board's final ruling.

Dated this 26th day of August, 2022.



Michael D. Cavin, Executive Director
On behalf of the Board

Copies to:

Randy C Oelfke (first-class mail and certified mail)
RESPONDENT

Kristi Traynor (electronic mail)
ATTORNEY FOR STATE

IOWA BOARD OF EDUCATIONAL EXAMINERS

JUL 27 2022

In the Matter of:)	DIA No. 22DOEBEE0041
)	
RANDY C OELFKE,)	
)	
Respondent.)	PROPOSED DECISION

STATEMENT OF THE CASE

On March 25, 2022, Dr. Thomas Ahart, Superintendent of the Des Moines Community School District (Des Moines CSD), filed a Complaint against Respondent Randy Oelfke with the Iowa Board of Educational Examiners (the Board). The Complaint alleged that Respondent had abandoned a written professional employment contract without prior unconditional release by the employer, in violation of 282 Iowa Administrative Code rule 25.3(5)(a)(2). On May 20, 2022, the Board found probable cause to proceed to hearing and issued a Notice of Hearing and Statement of Charges.

A hearing was held on July 26, 2022 at the Wallace State Office Building in Des Moines, Iowa. Complainant Des Moines Community School District was represented by attorney Miriam Van Heukelem. Respondent Randy Oelfke appeared remotely and provided testimony.

The record in the case includes the following: the June 7, 2022 Notice of Hearing and Statement of Charges; the Board's online licensing application for Respondent, including practitioner information and license details; the Complaint made by Superintendent Dr. Thomas Ahart; and Complainant's Exhibits 1 through 8. Additionally, the record includes the testimony of Principal Victor Coleman, Nicole Wichman, personnel manager, and Emily Behrens, personnel manager.

FINDINGS OF FACT

A. *Licensure*

Respondent holds a master educator license (folder # 1115818) with the following endorsements: K-8 Physical Education, K-12 Athletic Coach, 5-12 Physical Education, 5-12 Health, K-8 Health. Respondent's license is current and next expires on November 30, 2026.

B. *Employment with Des Moines Community School District*

Respondent was employed with the Des Moines CSD teaching Physical Education at Meredith Middle School. On August 25, 2021, Respondent signed a contract with Des Moines CSD to teach during the 2021-22 school year beginning in August 2021. (Ex. 2).

As part of the hiring process, Respondent acknowledged that he read the Des Moines CSD's employment handbook which states as follows:

If a certified employee tenders a resignation or retirement request after the 21-day time period [from receipt of the employment contract], Des Moines Public Schools will be unable to release the employee from their current contract until a suitable replacement is hired. In addition, once a suitable replacement is hired, there will be a \$1,500 fee assess for release of contract, change in fee effective 1/31/2022. If a suitable replacement is not hired . . . , the employee will be expected to fulfill the contract until the end of the school year.

(Ex. 4).

The Employee Handbook references Des Moines CSD Board Policy Series 400 Code 417. The Board Policy states that the school board will only release a certified employee from their contract in "exceptional circumstances" considered on a case by case basis, which includes consideration of whether a suitable replacement can be found. (Ex. 3).

On December 21, 2021, the last day before winter break, Respondent turned in his computer and keys to the associate principal at Meredith Middle School. Respondent informed the associate principal that he had accepted a job in another state. Respondent also submitted a letter of resignation dated December 20, 2021. In the letter, Respondent indicated that his resignation would take effect on January 3, 2022 at 12:01 am. Respondent stated that an opportunity "came out of the blue" that he could not refuse and therefore he was choosing to resign. (Ex. 1).

Respondent had not previously notified Des Moines CSD of his intent to resign and had not been granted a release from his contract by the district. On December 22, 2021, Des Moines CSD personnel manager, Nicole Wichman, sent Respondent an email and informed him that if he completes his resignation request, he will be in violation of his contract and will be charged a fee. She also informed Respondent that he is required to report to work until the district finds a suitable replacement and can release him from his contract. (Ex. 5). Respondent did not respond to the email. Ms. Wichman attempted to call Respondent several times and left him voicemails each time. Her calls were never returned. (Wichman Testimony).

On January 3, 2021, Respondent did not report for work and was placed on unpaid administrative leave. That same day, Ms. Wichman sent Respondent an email stating that she needs to provide him with documentation regarding his resignation and requested his address. (Ex. 6). Respondent did not reply to the email. On January 24, 2022, another personal manager for the district, Emily Behrens, sent an email to Respondent informing him that she needed to provide him with final employment documents, including a notice of termination. Respondent finally responded to Ms. Behren's email and provided an address at which he may personally receive the documents. (Ex. 7).

On January 31, 2022, the district sent a notification of termination to the address provided by Respondent with a request for a signature. Respondent did not sign for the document. On February 15, 2022, the district terminated the Respondent's employment.

After receiving the Respondent's resignation letter, the district attempted to fill Respondent's position. However, Des Moines CSD did not receive any applications from certified teachers licensed to teach middle school physical education. The district decided to move another teacher within Meredith Middle School to teach Respondent's classes and hired a long-term sub to teach the other teacher's classes. (Coleman Testimony; Wichman Testimony).

At hearing, Respondent admitted that he did not fulfill the terms of his contract with Des Moines CSD. However, Respondent argued that his work environment was unsafe. Specifically, Respondent stated that although his termination letter indicated that he was leaving to accept a new position, Respondent left because he felt unsafe due to the following: (1) fights in the school; (2) an incident when a student allegedly brought a gun to school; (3) an incident when another student was threatened with a knife; (4) school violence in general; and (5) he was physically threatened by an eighth grade student. In regards to when the Respondent was physically threatened, Respondent testified that he was working with a student's brother and she told him to leave her brother alone or she would "kill him" or "mess him up." Respondent did not report the incident to administration. (Oelfke Testimony).

In response, Des Moines CSD argued that Respondent did not work in an unsafe work environment. Principal Coleman testified that the incident with the gun involved a toy gun and he informed Respondent of that fact. In regards to the knife incident, the incident happened after school hours, when no teachers were at the school. The student who threatened the victim was suspended and the victim later returned to school. In regards to school violence in general, the District argued that if teachers are allowed to abandon their contracts due to a "generalized fear of school violence," Iowa law prohibiting a teacher from abandoning a professional contract without a prior release from their employer would be rendered meaningless. Finally, the district asserts it was not aware of Respondent's concerns regarding an unsafe environment as Respondent only stated that he was resigning because he accepted a new position.

CONCLUSIONS OF LAW

The legislature created the Board of Educational Examiners with exclusive authority to license practitioners and develop a code of professional rights and responsibilities, practices and ethics. The Board has promulgated a Code of Professional Conduct and Ethics at 282 Iowa Administrative Code Chapter 25. Additionally, the Board has the authority to enforce its rules through revocation or suspension of a license, or by other disciplinary action against a practitioner licensed by the Board.¹ In a case alleging the

¹ Iowa Code § 272.2.

failure of a practitioner to fulfill contractual obligations, the person who files a complaint with the board shall represent the complainant in a disciplinary hearing.²

Respondent is charged with a violation of 282 Iowa Administrative Code rule 25.3(5)(a)(2). That rule provides that it is a violation of Standard V, relating to contractual obligations, to abandon a written professional employment contract without prior unconditional release by the employer.

The preponderance of the evidence establishes that Respondent violated 282 Iowa Administrative Code (IAC) rule 25.3(5)(a)(2) by abandoning a written professional employment contract without prior unconditional release from Des Moines CSD. Respondent signed a teaching contract for the 2021-22 school year, then resigned in December 2021, the day before winter break. At the time he resigned, Respondent had not had any discussions with the district about obtaining a release from his contract and had not obtained any such release. The district communicated to Respondent that it was not releasing him from his contract and expected him to report for work. When Respondent did not report for work as scheduled, the district terminated him for abandoning his contract.

Although Respondent argued that he feared for his personal safety while working at Meredith Middle School, Respondent could only testify to one incident when he felt he was personally threatened. However, Respondent failed to report such incident to the building administrators or notify administration that such incident was a factor in his resignation. As such, the record establishes that Respondent violated 282 IAC 25.3(5)(a)(2).

Sanction

Where a violation is found, the Board has the authority to impose the following disciplinary sanctions:

1. Revoke a practitioner's license, certificate or authorization.
2. Suspend a practitioner's license, certificate or authorization until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, a practitioner from engaging in specified practices, methods, or acts.
4. Require additional education or training.
5. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
6. Issue a public letter of reprimand.
7. Order any other resolution appropriate to the circumstances of the case.³

² Iowa Code 272.2(4).

³ 282 Iowa Administrative Code (IAC) 11.33.

When considering the appropriate sanction, the Board may consider mitigating and aggravating factors. Relevant mitigating factors may include, but are not limited to, serious illness of the licensee or an immediate family member, the licensee's spouse receiving an unexpected job transfer to another city or state requiring a move to keep the family intact, and the availability of a suitable replacement for the licensee. Relevant aggravating factors may include, but are not limited to the licensee's failure to respond to the charges, the lack of a compelling reason for the resignation, and the difficulty of finding a suitable replacement. In previous cases, the Board has suspended a licensee's teaching license when aggravating factors exist such as failing to cooperate with the district or when the timing of the resignation makes it difficult for a district to hire a suitable replacement. *See In re Kartel*, 00BEE005 (suspending license for 1 year); *In re Tucker*, 18BEE0038 (suspending license for 60 days); *In re Smith*, 15BEE017 (suspending license for 30 days); *In re Honda*, Case No. 14-02 (suspending license for 90 days after a mid-year resignation).

There are no mitigating factors at play here. The information provided by Respondent to the district indicated that he took a job in another state; there was no indication that this decision was related to any emergency. In addition, although Respondent argued that he felt the school presented an unsafe work environment, Respondent could only mention one incident in which he was personally threatened and he failed to report such incident to administration. In addition, Respondent's generalized fear of school violence does not constitute a mitigating factor as Respondent failed to establish how general school violence made it impossible for him to continue teaching and such fear could apply in any contract abandonment case. As such, Respondent failed to establish any mitigating factors to explain his abandonment of his contract.

However, there are aggravating factors present. Respondent left his employment in the middle of the school year when hiring a replacement teacher is extremely difficult. Not only did Respondent notify the district of his resignation in the middle of the school year, he informed the district of his decision right before winter break when schools are out for the winter holidays. The district provided credible testimony that hiring a new teacher during such time is extraordinarily difficult and it did not receive any suitable applicants for Respondent's teaching position. Respondent also refused to respond to multiple attempts by the district to contact him regarding his resignation and Respondent failed to cooperate with the district in securing a suitable replacement. Respondent also failed to cooperate with the Board by refusing to initially accept service of the Notice of Hearing and Statement of Charges.

In light of this, the undersigned concludes that something more than a public reprimand is warranted. The school district has requested that Respondent's teaching license be suspended for six months due to the aggravating factors. Under the circumstances present here, a six month suspension is warranted.

ORDER

IT IS THEREFORE ORDERED that the license issued to Respondent Randy Oelfke shall be suspended for a period of 6 months as a sanction for his violation of 282 Iowa

Administrative Code 25.3(5)(a)(3). This sanction shall be effective when this Proposed Decision becomes a final order of the Board.

Dated this 27th day of July, 2022.



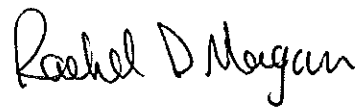
Rachel D. Morgan
Administrative Law Judge

cc: Randy Oelfke (First Class Mail)
Miriam Van Heukelem, Attorney, Des Moines CSD (First Class and Electronic Mail)
Kim Cunningham, Board of Educational Examiners (Electronic Mail)

Appeal on the Merits. Pursuant to 282 Iowa Administrative Code 11.28, any adversely affected party may appeal a proposed decision to the Board within 30 days after issuance of the proposed decision. The notice of appeal must be in writing and signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify the parties initiating the appeal, the proposed decision or order appealed from, and the specific findings or conclusions to which exception is taken and any other exceptions to the decision or order, the relief sought, and the grounds for relief.

Case Title: IN THE MATTER OF RANDY C. OELFKE (22-63)
Case Number: 22DOEBEE0041
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Rachel D. Morgan". The signature is written in a cursive, flowing style.

Rachel Morgan, Administrative Law Judge

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA**

In the matter of)	Case No. 22-63
)	Folder No. 1115818
RANDY C. OELFKE,)	
)	NOTICE OF HEARING
Respondent.)	AND STATEMENT OF CHARGES

YOU ARE HEREBY NOTIFIED that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing will be held on Tuesday, July 26, 2022, before Administrative Law Judge Rachel Morgan acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. at the Department of Inspections and Appeals, Wallace State Office Bldg., Third Floor, 502 E. 9th Street (East 9th and Grand Avenue), Des Moines, Iowa. Please report to the main floor atrium (2nd floor) and call 515-281-6468 upon your arrival for assistance.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Des Moines Public Schools.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 Iowa Administrative Code rule 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the request for telephonic testimony must be served on the Board and all parties. Any

resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 Iowa Administrative Code rule 11.18.

5. Prosecution. The Complainant is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to the Complainant at the following address:

Des Moines Public Schools
2100 Fleur Drive
Des Moines, Iowa 50321

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Michael D. Cavin, the Board's Executive Director, at (515) 281-5849.

B. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

7. Respondent is charged with abandoning a written professional employment contract without prior unconditional release by the employer, in violation of Board rule 282 Iowa Administrative Code rule 25.3(5)(a)(2).

C. JURISDICTION AND LEGAL AUTHORITY

8. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 Iowa Administrative Code chapter 11.

D. FACTUAL CIRCUMSTANCES

9. Respondent holds a MASTER EDUCATOR LICENSE (FOLDER # 1115818) with the following endorsements: K-8 Physical Education, K-12 Athletic Coach, 5-12 Physical Education, 5-12 Health, K-8 Health. This license is current and will next expire on November 30, 2026.

10. Respondent was hired by the Des Moines Public Schools to serve as a Teacher.

11. Respondent signed a contract for the 2021-22 school year. On December 21, 2021, Respondent resigned effective immediately. Respondent was advised that his resignation would not be accepted. Respondent has not appeared to teach as required by his contract.

12. On April 5, 2021, the Board of Educational Examiners received a complaint against Respondent alleging various violations. On May 20, 2022, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

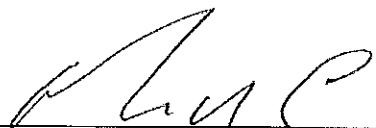
13. Investigation revealed that Respondent did abandon his contract as alleged in the complaint.

14. Respondent did not obtain a release from Des Moines Public Schools prior to Respondent's resignation, as required by 282 Iowa Administrative Code rule 25.3(5)(b)(1), and did not provide notice to the employing board in accordance with 282 Iowa Administrative Code rule 25.3(5)(b)(2).

E. SETTLEMENT

15. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 Iowa Administrative Code rule 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Complainant identified in Section A, above.

Dated this 7th day of June, 2022.



Michael D. Cavin, Executive Director—
Iowa Board of Educational Examiners

Copies to:

Randy C. Oelfke (first-class mail and certified mail)
RESPONDENT

Des Moines Public Schools (electronic mail)
COMPLAINANT